

Docket No.: 59802(49947)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Application No.: 10/531,964

Confirmation No.: 8976

Filed: December 7, 2005

Art Unit: 1634

For: METHODS OF ASSESSING THE RISK OF
REPRODUCTIVE FAILURE BY
MEASURING TELOMERE LENGTH

Examiner: Diana B Johannsen

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits this paper in response to the restriction requirement set forth in the Office Action dated June 27, 2008, in the above-referenced patent application, along with a request for a two month extension of time and the required fee based on small entity status. Applicant believes that no other fees are required for consideration and entry of this response. Nevertheless, the Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) or credit any overpayment to our Deposit Account No. 04-1105.

Claims 1-8 and 13-54 are pending in the instant application and are subject to restriction.

The Office Action, on page 2, requires restriction to one of the following groups under 35 U.S.C. §121 and 372:

Group I, claim(s) 1-8 and 13-51, drawn to methods for determining the risk of reproductive failure and related methods comprising measurement and comparison of telomere length; and

Group II, claim(s) 52-54, drawn to kits comprising labeled telomere-specific probes, reagents for preparing a chromosomal spread, reagents for performing quantitative FISH, and instructions.

In response to the restriction requirement set forth in the Office Action mailed June 27, 2008, Applicant hereby elects, without traverse, the invention of Group I, claims 1-8 and 13-51 for continued examination. Further, the Examiner has required that Applicant elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 47-48 are generic with regard to each of claims 49-51. Applicant hereby elects SEQ ID NO: 1, without traverse.

Applicant acknowledges the statement in the Office Action on page 3 that upon an allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim. Applicant fully intends to seek consideration of any and all additional species.

The aforementioned elections are being made solely to comply with, and be fully responsive to, the Restriction Requirement set forth in the Office Action. The right to file one or more divisional applications on non-elected subject matter is reserved.

In view of the foregoing, Applicant earnestly solicits early action on the merits. If a telephone conversation with Applicant's representative would be useful to advance prosecution of the application, the Examiner is encouraged to contact the undersigned.

Dated: September 3, 2008

Respectfully submitted,

By 

Elbert Chiang, Ph.D.

Registration No.: 60,325

EDWARDS ANGELL PALMER & DODGE
LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 517-5502

Attorneys/Agents For Applicant